



Attorney's Docket No. HIT1P020A/SJ0920010068US2

MAY 10 2005 4:06

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Douglas Werner

Application No.: 10/601,021

Filed: 06/19/2003

For: PLANAR GAP PRE-FILL METHOD FOR READ HEADS

Group No.: 3729

Examiner: Kim, Paul D.

RECEIVED

MAY 20 2005

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

OFFICE OF PETITIONS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
— OFFICE ACTION NOT RECEIVED

1. I hereby petition to withdraw the holding of abandonment in this case, on the basis that the Office Action forming the basis of the abandonment was not received.
2. I hereby state:
 - (a) The Office Action indicated, as mailed on August 26, 2004, was not received.
 - (b) A search of the file jacket and the docket records in my office indicates that this Office Action was not received.
 - (c) The PAIR site indicates that the Office Action was returned to the USPTO as undeliverable on August 26, 2004.

CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10*

(When using Express Mail, the Express Mail label number is mandatory;
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

37 C.F.R. § 1.8(a)

with sufficient postage as first class mail.

37 C.F.R. § 1.10*

as "Express Mail Post Office to Addressee"

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TRANSMISSION

✓ facsimile transmitted to the Patent and Trademark Office, (703) 872-9306.

Erica L. Farlow
Signature

Erica L. Farlow

(type or print name of person certifying)

Date: 5/5/2005

* Only the date of filing (1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under 1.8 continues to be taken into account in determining timeliness. See 1.703(f). Consider "Express Mail Post Office to Addressee" (1.10) or facsimile transmission (1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Adjustment date: 01/10/2006 CKHLOK
05/19/2005 DALLEN 00000001 502587 10601021
01 FC:1464 130.00 CR

Petition to Withdraw Holding of Abandonment—Office Action Not Received—page 1 of 2

10601021

00000001 502587

05/19/2005 DALLEN

130.00 DA

01 FC:1464

3. I attach a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed. Please see page 2 of Exhibit A. This shows how the entry would have appeared on our docket.

4. As additional evidence of non-receipt of the Office Action, I also attach:

Exhibit B is a copy of the PAIRConnect Patent Record which shows a direct comparison of the PTO Action Items on the PAIR system and the IP Master Actions listed in our docketing database. The PAIR column shows the mailing of the Non-Final Rejection on 8/26/2004, but there is no action noted as received on our side.

Exhibit C is a copy of the PAIR Image File Wrapper showing the Non-Final Rejection was returned to the USPTO as undelivered on 08/26/2004. Please note that is the same date as the Mailing date of the Action.

Exhibit D is a copy of our Firm's Audit Sheet showing a note from docketing department personnel highlighting the non-receipt of the Office Action in question.

5. In consideration of these submissions, it is respectfully requested that the holding of abandonment be withdrawn.

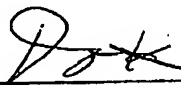
6. The petition fee (37 C.F.R. § 1.17(h)–\$130.00) is paid as follows:

Should the Commissioner find that a fee is necessary, authorization is hereby made to charge the amount of \$130.00 to Deposit Account No. 50-2587 (Order No. SJ0920010068US2).

Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

Reg. No.: 42,762
Tel. No.: 408-971-2573
Customer No.: 50535



Signature of Practitioner
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P.O. Box 721120
San Jose, CA 95172-1120
USA

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND				
1 Date of Request: <u>1/9/06</u>		2 Serial/Patent # <u>10/601,021</u>		
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			\$
	Amendment			\$
	Extension of Time			\$
	Notice of Appeal/Appeal			\$
<input checked="" type="checkbox"/>	Petition	/	5/5/05	\$ 13000
	Issue			\$
	Cert of Correction/Terminal Disc.			\$
	Maintenance			\$
	Assignment			\$
	Other			\$
		7 TOTAL AMOUNT OF REFUND		\$ 130.00
10 REASON:		8 TO BE REFUNDED BY:		
		Treasury Check		
<input type="checkbox"/> Overpayment <input type="checkbox"/> Duplicate Payment <input checked="" type="checkbox"/> No Fee Due (Explanation):		<input checked="" type="checkbox"/> Credit Deposit A/C #:		
		<div style="border: 1px solid black; display: inline-block; padding: 2px;"> 9 5 0 -- 2 5 8 7 </div>		
<i>waived & grantable under 1.181</i>				
11 REFUND REQUESTED BY:				
TYPED/PRINTED NAME: <u>Patricia Eaison-Ball</u>		TITLE: <u>Attorney</u>		
SIGNATURE: <u>Patricia Eaison-Ball</u>		PHONE: <u>23212</u>		
OFFICE: <u>Petitions</u>				
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APPROVED: <u>[Signature]</u>		DATE: <u>1/10/06</u>		

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: